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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,639	02/07/2001	Babak Nemati		7136
34284	7590	08/16/2004		
ROBERT D. FISH RUTAN & TUCKER LLP 611 ANTON BLVD 14TH FLOOR COSTA MESA, CA 92626-1931			EXAMINER HAYES, MICHAEL J	
			ART UNIT 3763	PAPER NUMBER

DATE MAILED: 08/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/777,639

Applicant(s)

NEMATİ, BABAK

Examiner

Michael J Hayes

Art Unit

3763

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☒ Newly proposed or amended claim(s) 101 and 103-105 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Michael J Hayes
Primary Examiner
Art Unit: 3763

Continuation of 2. NOTE: The proposed amendment to claim 93 requires further consideration and/or search, while claim 101 has been placed in condition for allowance, upon filing a separate paper canceling all non allowed claims.

Amending claim 101 with the limitations of claim 102 places that claim and its dependent claims in condition for allowance. Claim 102 was dependent on claim 101 and new claim 101 is allowable because it is former claim 102 rewritten in independent form including all of the limitations of the base claim 101 and any intervening claims. Claim 93, on the other hand, adds new limitations (from former claim 102) that changes the scope of the claim and that were not previously considered, requiring further consideration and/or search.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejection under 35 USC 103 (a) of claim 101 is overcome by the amendment that adds the limitations previously recited in dependent claim 102.